



22 OCT 2003

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. Box 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Nixon & Vanderhye P.C.
1100 North Glebe Road, 8th Floor
Arlington, VA 22201-4714

In re Application of VROUENRAETS et al :
U.S. Application No.: 09/980,088 :
Int. Application No.: PCT/GB00/01215 : COMMUNICATION
Int. Filing Date: 30 March 2000 :
Attorney Docket No.: 1626-3 :
For: PHOTODYNAMIC THERAPY COMPOUNDS :

This is in response to applicant's letter filed 08 October 2003.

BACKGROUND

On 30 March 2000, applicant filed international application PCT/GB00/01215. A copy of the international application was communicated to the USPTO from the International Bureau on 11 October 2001. The twenty-month period for paying the basic national fee in the United States expired at midnight on 30 November 2001.

On 30 November 2001, applicant filed national stage papers in the United States Designated/Elected Office (DO/EO/US). The submission was accompanied by, *inter alia*, the basic national fee required by 35 U.S.C. 371(c)(1).

On 24 January 2002, the DO/EO/US mailed a Notification of Missing Requirements Under 35 U.S.C. 371 (Form PCT/DO/EO/905), which indicated that an oath or declaration in compliance with 37 CFR 1.497 must be filed.

On 23 August 2002, applicant filed a petition under 37 CFR 1.497(d) along with an executed declaration.

On 15 November 2002, this Office mailed a decision dismissing the 23 August 2002 petition.

On 24 March 2003, applicant filed a renewed petition along with an executed declaration.

On 09 May 2003, this Office mailed a decision granting the 24 March 2003 petition. The decision stated that properly executed declarations had not been received for all of the applicants.

On 22 May 2003, the DO/EO/US mailed a Notification of Defective Response (Form PCT/DO/EO/916), which indicated that the declaration filed 24 March 2003 was not executed by all of the inventors.

On 20 June 2003, applicant filed a response to the Notification of Defective Response.

On 02 October 2003, the DO/EO/US mailed a Notification of Abandonment (Form PCT/DO/EO/909), which indicated that the application is abandoned for failure to respond to the Notification of Missing Requirements mailed 24 January 2002.

On 08 October 2003, applicant filed the present letter.

DISCUSSION

As specifically set forth in the decision mailed 09 May 2003, the declaration filed 24 March 2003 is acceptable with regard to inventor Augustinus Van Dongen. However, declarations properly executed by inventors Martinus Vrouenraets and Gerardus Viisser have not been provided. The declaration filed 23 August 2002 is improper because the last name of the third listed inventor does not match that shown on the international application.

Applicant's 20 June 2003 response appears to be a bona fide attempt to reply to the Notification of Defective Response mailed 22 May 2003. However, declarations properly executed by inventors Martinus Vrouenraets and Gerardus Viisser have yet to be provided.

CONCLUSION

For the reasons above, the Notification of Abandonment mailed 02 October 2003 is hereby VACATED.

Applicant is required to file a proper response within TWO (2) MONTHS from the mail date of this communication. A proper response would include declarations properly executed by inventors Martinus Vrouenraets and Gerardus Viisser or a petition under 37 CFR 1.47(a) as appropriate. Failure to timely file a proper response will result in ABANDONMENT of the application. Extensions of time are NOT available under 37 CFR 1.136(a).

Please direct further correspondence with respect to this matter to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria,

Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.



Bryan Tung
PCT Legal Examiner
PCT Legal Office

Telephone: 703-308-6614

Facsimile: 703-308-6459